

Department of Energy
Assistance Regulation

No. AL-2007-02
Date 12/12/06



ACQUISITION LETTER

This Acquisition Letter is issued under the authority of the Procurement Executives of DOE and NNSA

Subject: Executive Compensation For Senior Executives Under All Contracts And DOE Approval Of The Salary For The Top Contractor Management Official Under Management And Operating Contracts

References:

FAR 31.205-6	Compensation for personal services
DEAR 970.3102-05-6	Compensation for personal services
DEAR 970.5232-2	Payments and Advances

When is this Acquisition Letter (AL) Effective?

This AL is effective upon issuance.

When Does This AL Expire?

This AL remains in effect until superseded or canceled.

Whom do you Contact for More Information?

Contact Michael Righi at Michael.righi@hq.doe.gov or (202) 287-1337 in the Office of Procurement and Assistance Policy for questions pertaining to Federal Acquisition Regulation (FAR) or Department of Energy Acquisition Regulation (DEAR) policy regarding compensation of contractors' senior executives congruent with regulatory requirements related to the benchmark compensation amount.

Contact Rose Johnson at rosemary.johnson@hq.doe.gov or (202) 287-1552 in the Office of Contract and Resource Management for questions pertaining to approval of the salary of a top contractor management official under a management and operating (M&O) contract.

Visit our website at www.pr.doe.gov for additional information on Acquisition Letters and other policy issues.

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

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NSN 7540-01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION

What is the Purpose of this Acquisition Letter?

The purpose of this Acquisition Letter (AL) is to provide guidance on: (1) the compensation of contractor senior executives under all contracts; and (2) the salary of the top contractor management official under management and operating contracts and other contracts designated by the Senior Procurement Executives.

What is the Background Information You Need to Know?

All Contracts—Maximum Compensation Of Contractors' Senior Executives Per Office of Federal Procurement Policy (OFPP) Benchmark Compensation Amount

For a Number of years the Department has limited the maximum **compensation** of contractors' senior executives by, among other things, following the Federal Acquisition Regulation (FAR). Essentially, OFPP would issue a "benchmark compensation amount:" for the contractor fiscal year as the upper limit on compensation of "senior executives." The Department would then disseminate the benchmark compensation amount via Policy Flash. Current regulatory coverage is as follows: for non-M&O contracts FAR 31.205-6 (p) applies; for M&O contracts DEAR 970.5232-2, DEAR 970.3102-05-6, and FAR 31.205-6 (p) apply. The Department will continue its practice of issuing Policy Flashes when OFPP issues a new benchmark compensation amount. For ease of contract administration, the attachment to this AL contains a matrix tying each period from 1996 to present with the Benchmark Compensation Amount, Acquisition Letters, and Policy Flashes that applied to the period,

M&O Contracts and Other Contracts Designated by the Senior Procurement Executives—Salary Of the Top Contractor Management Official

In addition to limiting the maximum compensation of contractors' senior executives by, among other things, following the FAR requirements related to the OFPP benchmark compensation amount, the Department has also applied restraints to the salary of the top contractor management official for M&O contracts and other contracts designated by the Senior Procurement Executives. (Salary is a component of compensation (see FAR 31.205-6 (p).) DOE will continue this practice, but will discontinue one of the restraints, the cap on the dollar amount of the salary.

What is the Guidance Contained in this AL?

All Contracts—Maximum Compensation Of Contractors' Senior Executives Per Office of Federal Procurement Policy (OFPP) Benchmark Compensation Amount

Follow the FAR in determining the allowability of the compensation of all contractors' senior executives per the OFPP benchmark compensation amount. See FAR 31.205-6 (p) for non-M&O contracts. See DEAR 970.5232-2, DEAR 970.3102-05-6, and FAR 31.205-6 (p) for M&O contracts.

M&O Contracts and Other Contracts Designated by the Senior Procurement Executives-Salary Of the Top Contractor Management Official

1. If they adhere to the parameters in paragraph 5 below, Heads of Contracting Activities in DOE and Site Office Managers in the National Nuclear Security Administration (NNSA) may approve the **salary** of the top contractor management official. If they don't, they must submit a request to and obtain the approval of the DOE Senior Procurement Executive or NNSA Senior Procurement Executive, respectively. The DOE Senior Procurement Executive or the NNSA Senior Procurement Executive will consult with the Cognizant Program Secretarial Officer before approving such a salary. Heads of Contracting Activities and Site Office Managers do not need to obtain the approval of their respective Procurement Executives to depart from the parameters in paragraph 5 if the salary contemplated is less than \$100,000.
2. The Heads of Contracting Activities and Site Office Managers shall obtain an assessment of the top management official's performance and of his/her organization from the appropriate Headquarters program office prior to approving the official's salary or submitting a request to the Senior Procurement Executive.
3. The Heads of Contracting Activities and Site Office Managers shall notify the Cognizant Program Secretarial Officer at least 489 hours before approving a salary of a top contractor management official.
4. The Heads of Contracting Activities and Site Office Managers shall provide the final salary determination and the effective date to the DOE Senior Procurement Executive or the NNSA Senior Procurement Executive, respectively, and to the Cognizant Program Secretarial Officer.
5. Heads of Contracting Activities and Site Office Managers shall adhere to the following parameters when approving the salary of the top contractor management official:
 - a. A salary increase shall not exceed industry benchmarks.
 - b. The sum of the salary and other compensation elements shall not exceed the benchmark compensation amount for the contractor Fiscal Year (see FAR 31.205-6(p)).
 - c. Salary actions due to recruitment or promotion are limited to the lesser of 10 percent above the candidate's current salary or 6 percent above the prior incumbent's reimbursed salary.
 - d. Salary increases that are neither recruitment nor promotion actions shall not exceed 6 percent per annum.
 - e. Except for promotions and "acting" situations, only one salary increase per individual is permitted during any twelve month period.
 - f. A salary increase shall be within the contractor's original salary range for the position and in accordance with the contractor's salary increase distribution program.
 - g. Heads of Contracting Activities and Site Office Managers shall require contractors to submit each salary action (including notifications) for a top contractor management

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official on a fully completed DOE F 3220.5, "Application for Contractor Compensation Approval."